IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Gurjeet Singh. Versus State of Rajasthan.

S.B. Criminal Misc. Petition No. 1132/2006 against the order dated 29-4-2006 passed by the Special Judge, N.D.P.S. Act Cases, Ratangarh, district Churu, in Criminal Misc. Case No.69/2006.

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Date of Order: September 14, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Ramandeep Singh Sidhu, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner has assailed the order dated 29-4-2006 passed by the Special Judge, N.D.P.S. Act Cases, Ratangarh, district Churu (for short, "the trial Court" hereinafter) in Criminal Misc. Case No. 69/2006, whereby the trial Court dismissed the application filed by the petitioner for releasing the Truck No. RJ.20-G-4596 in his favour.

I have heard learned counsel for the petitioner and the Public Prosecutor for the State. Perused the order impugned.

The said truck was seized by the Excise Officer, Ratangarh on 14-3-2006 as it was found carrying 480 bags of PVC powder and two bags containing opium weighing 25 kgs. The petitioner, claiming himself to be registered owner, moved an application for releasing the said truck in his favour. The petitioner, who claims himself to the registered owner of the said truck, himself was driving the truck which was occupied by cleaner Uma Shankar. On a search being made, the said truck was found carrying 480 bags of PVC powder and 25 kgs of opium. Thus, there is prima facie evidence that the petitioner, being the owner of the said truck, was having conscious knowledge about the contraband being carried on the truck.

Sub-section (3) of Section 60 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the Act" hereinafer) provides that any animal or conveyance used in carrying any narcotic drug or psychotropic substance or controlled substances, or any article liable to confiscation under sub-section (1) or sub-section (3) shall be liable to confiscation, unless the owner of the animal or conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person-in-charge of the animal

or conveyance and that each of them had taken all reasonable precautions against such use. In the instant case, the petitioner being the owner and himself to be the driver of the said truck at the time of its search and seizure by the Excise Officer, was having conscious knowledge about the contraband articles being taken on the truck. In this view of the matter, the trial Court was justified in dismissing the application filed by the petitioner for delivery of the truck on Supurdginama. The impugned order does not require any interference.

The criminal miscellaneous petition is, therefore, dismissed.

(H.R. PANWAR), J.

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